

RXC 12/26/01 14:29

3:01-CV-02348 USA V. FORD 1998 MUSTANG

1

CMP.

131683

ORIGINAL

1 PATRICK K. O'TOOLE
2 United States Attorney
3 MARK EDELMAN
4 Assistant U.S. Attorney
5 California State Bar No. 156862 U.S. DISTRICT COURT
6 Federal Office Building SOUTHERN DISTRICT OF CALIFORNIA
7 880 Front Street, Room 6293
8 San Diego, California 92101-8893 BY: DEPUTY
9 Telephone: (619) 557-6563

FILED
01 DEC 21 PM 4:05
CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

10 Attorneys for Plaintiff
11 United States of America

12
13 UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,) Civil No.
16 Plaintiff,)
v.) COMPLAINT FOR
17 1998 FORD MUSTANG,) FORFEITURE
18 CA LICENSE NO. 4CTK913,)
19 VIN 1FAFP4046WF216642,)
20 ITS TOOLS AND APPURTENANCES,)
Defendant.)

)

'01 CV 2348 L(AJB)

21 For its claim against the defendant, One 1998 Ford Mustang, CA
22 License No. 4CTK913, VIN 1FAFP4046WF216642, its tools and
23 appurtenances (hereinafter "defendant vehicle"), the United States of
24 America alleges:

25 1. This court has jurisdiction over this action by virtue of
26 the provisions of Title 28, United States Code, Sections 1345 and
27 1355, and Title 8, United States Code, Section 1324.

28 2. Venue is proper in this district pursuant to Title 28,
United States Code, Section 1395 because the acts or omissions giving
rise to the forfeiture occurred in this district.

29 ///

30 2001v00860:MPE:tlp

1 3. On July 30, 2001, at approximately 2:40 p.m., Steven Edward
2 Payne entered the United States from Mexico at the San Ysidro Port of
3 Entry. Payne was the driver, registered owner, and sole visible
4 occupant of a 1998 Ford Mustang automobile bearing California license
5 plate 4CTK913. Concealed within a compartment under the back seat of
6 the vehicle at the time of Payne's entry into the United States was
7 Martha Garcia-Leon, a native and citizen of Mexico without legal
8 authorization to enter into or reside in the United States.

9 Upon the discovery of Garcia, Payne was questioned as to his
10 knowledge of her presence in the vehicle. Payne stated that he knew
11 Garcia was in the vehicle and further stated that he knew she was
12 undocumented. Payne stated that he was to be paid \$1,600 to bring
13 Garcia into the United States and then transport her to Santa Ana,
14 California.

15 Payne had also been apprehended while engaged in alien smuggling
16 on August 22, 2000. On that occasion Payne attempted to bring an
17 undocumented alien, Sara Saldivar-Gonzalez, into the United States
18 through the San Ysidro Port of Entry by concealing her in the trunk
19 of his car. Payne admitted his knowledge of Saldivar's presence in
20 the vehicle and her undocumented status. The car Payne was driving
21 on that occasion was the same Ford Mustang that he utilized on
22 July 30, 2001, and which is the subject of this forfeiture complaint.

23 4. On and/or prior to July 30, 2001, the defendant vehicle had
24 been and was being used to facilitate the crime of attempted
25 transportation within the United States of an alien not entitled to
26 enter, reside in, or remain within the United States in violation of
27 Title 8 United States Code, Section 1324(a)(1)(A)(ii).

28 ///

1 5. Because of the aforementioned acts or uses alleged herein,
2 either singly or in combination, the defendant vehicle is subject to
3 forfeiture pursuant to Title 8, United States Code, Section 1324(b).

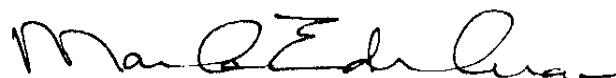
4 6. The defendant vehicle is presently stored within the
5 jurisdiction of this court.

6 7. The value of the defendant vehicle is approximately
7 \$7,050.00.

8 WHEREFORE, the United States prays that due process issue to
9 enforce the forfeiture of the defendant, and that due notice be given
10 to all interested parties to appear and show cause why said forfeiture
11 should not be declared.

12 DATED: 12/20/01

PATRICK K. O'TOOLE
United States Attorney



14
15 MARK EDELMAN
16 Assistant U.S. Attorney
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I, Alex Romero, hereby state and declare as follows:

3 1. I am an Immigration Inspector with the Immigration and
4 Naturalization Service.

5 2. I have read the foregoing complaint and know its contents.

6 3. The information in the complaint was furnished by official
7 Government sources. Based on this information, I believe the
8 allegations in the complaint to be true.

9 I declare under penalty of perjury that the foregoing is true and
10 correct, to the best of my knowledge and belief.

11 Executed on 12/21/01, 2001.

Alex Romero
ALEX ROMERO Immigration Inspector

ANEX ROMERO
Immigration Inspector

CIVIL COVER SHEET
Case 3:01-cv-02348-L -JFS Document 1 Filed 12/21/01 Page 6 of 6

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

ORIGINAL

PLAINTIFFS

UNITED STATES OF AMERICA

COUNTY OF RESIDENCE OF FIRST
 LISTED PLAINTIFF
 (EXCEPT IN U.S. PLAINTIFF
 CASES)

San Diego

DEFENDANTS

01 DEG 21 PM 4:05
FORD MUSTANG
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
 (IN U.S. PLAINTIFF CASES ONLY) Defendant Deputy

BY:

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

ATTORNEYS (IF KNOWN)

01 CV 2348 L(AJB)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
 2 U.S. Government 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PT	DEF	PT	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

TITLE 8, UNITED STATES CODE, SECTION 1324

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158
<input type="checkbox"/> Marine	310 Airplane	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> Miller Act	315 Airplane Product	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 625 Drug Related of Property 21 USC 881	<input type="checkbox"/> 423 Withdrawal 28 USC
<input type="checkbox"/> Negotiable Instrument	320 Assault, Libel & Liability	<input type="checkbox"/> 368 Asbestos Personal Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Enforcement of Judgment	330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 RR & Truck	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 450 Commerce/ICC
<input type="checkbox"/> 152 Recovery of Loans (Excl. Veterans)	345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 660 Occupational	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Veterans Benefits	350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 470 Racketeer Corrupt Organisations
<input type="checkbox"/> 160 Stockholders Suits	355 Motor Vehicle Liability	<input type="checkbox"/> 700 LABOR	<input type="checkbox"/> 810 Selective Service	
<input type="checkbox"/> Other Contract	360 Other Personal	<input type="checkbox"/> 710 Fair Labor Standards	<input type="checkbox"/> 862 Black Lung (923)	
<input type="checkbox"/> 195 Contract Product		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	
REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 730 Labor/Mgmt. Disclosure Act	<input type="checkbox"/> 864 SSID Title XVI	
<input type="checkbox"/> 210 Land Condemnation	441 Voting	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 865 RSI (405(g))	
<input type="checkbox"/> 220 Foreclosure	442 Employment	<input type="checkbox"/> 790 Other Labor	<input type="checkbox"/> 870 Taxes (U.S. or Defendant)	
<input type="checkbox"/> 230 Rent Lease &	443	<input type="checkbox"/> 791 Emp. Ret. Inc.	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	
<input type="checkbox"/> 240 Tort to Land	444 Welfare	<input type="checkbox"/> Security Act		
<input type="checkbox"/> 245 Tort Product	440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Habeas Corpus		
<input type="checkbox"/> 290 All Other Real		<input type="checkbox"/> 530 General		
		<input type="checkbox"/> 535 Death Penalty		
		<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prisoner Conditions		

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

1 Original 2 Removal 3 Remanded from from State 4 Appellate Court 5 Transferred 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 **DEMAND \$** **Check YES only if demanded in complaint:**

JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See JUDGE Docket Number

DATE 12-21-01

SIGNATURE OF ATTORNEY OF RECORD
 MARK EDELMAN, AUSA

Mark Edelman